

\*\*E-Filed 7/26/06\*\*

NOT FOR CITATION

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**SAN JOSE DIVISION**

MICROSOFT CORPORATION,  
Plaintiff,

v.

SUNCREST ENTERPRISE, et al.,  
Defendants.

Case Number C 03-5424 JF (HRL)

ORDER RE PROPOSED JUDGMENT  
SUBMITTED BY PLAINTIFF ON  
JULY 17, 2006

On July 17, 2006, Plaintiff submitted a proposed judgment against Defendants Suncrest Enterprise and Yi-Ling Chen. On July 20, 2006, Defendants filed an objection, pointing out that the proposed judgment is premature, because Plaintiff has not yet dismissed its remaining claims as it has indicated that it would, and because Defendants' cross-claims have not yet been resolved. Pursuant to Federal Rule of Civil Procedure 54(b), a court may "direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment." Fed. R. Civ. P. 54(b). "Judgments under Rule 54(b) must be reserved for the unusual case in which the costs and risks of multiplying the number of proceedings and of overcrowding the appellate docket are outbalanced by pressing needs of the litigants for an early and separate judgment as to some claims or parties." *Morrison-Knudsen Co., Inc. v. Archer*, 655

1 F.2d 962, 965 (9th Cir. 1981). Because Plaintiff has not demonstrated that judgment pursuant to  
2 Rule 54(b) is appropriate in this case, the Court declines to sign the proposed judgment.

3 IT IS SO ORDERED.

4  
5  
6 DATED: 7/26/06



8 JEREMY FOGEL  
9 United States District Judge  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 This Order has been served upon the following persons:

2 Jennifer N. Chiarelli Jchiarelli@perkinscoie.com, skumagai@perkinscoie.com

3 John C. Gorman jgorman@gormanmiller.com

4 Craig Alan Hansen chansen@gormanmiller.com

5 Andrew K. Jacobson andy@bayoaklaw.com

6 Shawn T. Leuthold leuthold@aol.com